UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNIVERSAL CITY STUDIOS, INC., et al., Plaintiffs, v. SHAWN C. REIMERDES, et al., Defendants.	00 Civ. 277 (LAK) (RLE)

DECLARATION OF CHARLES W. WOLFRAM

Charles W. Wolfram, under oath, deposes and says:

I. INTRODUCTION

1. I submit this Declaration at the request of Beldock Levine & Hoffman LLP, counsel for the law firm of Frankfurt, Garbus, Klein & Selz ("FGK&S), which is the object of a motion to disqualify recently filed by plaintiff Time Warner Entertainment Company, L.P. ("Time Warner"). The issue that I address is controlled by a very recent decision of this Court–Commercial Union Insurance Company v. Marco International Corp., 75 F. Supp. 2d 108 (S.D.N.Y. Mar. 31, 1999) (Kaplan, J.) ("Commercial Union"). In summary, it is my opinion: (1) that Time Warner was merely a secondary, nominal or accommodation client of FGK&S within the meaning of Commercial Union and the decisions that amply support it; and (2) several factors–the fact that Time Warner has not objected to FGK&S's representation of other adverse clients in several other matters in which Time Warner has been opposed by FGK&S, the delay of Time Warner in objecting to FGK&S's representation

here, the absence of any showing of adverse impact on Time Warner of the claimed conflict, the clear advantage to Time Warner in delaying this proceeding and the concomitant prejudice to defendants–all fully warrant the inference that the present motion is motivated by strategic considerations rather than a good faith concern that the asserted conflict would taint the trial in this matter.

I. QUALIFICATIONS

2. I am the Charles Frank Reavis Sr. Professor Emeritus at the Cornell Law School. I have been a member of the bar and a practicing lawyer since 1962 and a law professor since 1965. Since the Fall of 1975, I have been involved in research, writing, teaching, speaking, public-service activities, and consulting relating to legal and judicial ethics and the legal profession. In recent years, all of my research, teaching, public-service activities, and consulting have related directly to legal and judicial ethics. Without implying that any organization y endorses the views stated in this Declaration, since 1986 I have been serving as Chief Reporter for the American Law Institute's Restatement of the Law Governing Lawyers, which includes an extensive chapter on lawyer conflicts of interest. The Restatement was finally approved by the Institute in May, 1998, has now received a final edit, and has been submitted to West Publication for publication in a two-volume set later this Summer.

3. I am also the author of the West Publishing treatise Modern Legal Ethics, and am currently revising the book for a second edition. Two chapters of the book are devoted to lawyer conflicts of interest. I have written about the professional responsibilities of lawyers and judges in other books, scholarly articles, book chapters, and newspapers and magazines. The Restatement, my treatise, and other works that I have authored are known to and have been cited, quoted, and relied upon by scholars and courts, including the Supreme Court of the United States and the federal and

state courts in New York. (My Modern Legal Ethics treatise is listed as one of the "Most Cited Treatises and Texts" published in last twenty years in Fred R. Shapiro, The Most-Cited Legal Books, 18 *Legal Information Alert* 1, 6 (September, 1999).) I have frequently lectured to bar associations, continuing education groups, judicial conferences and similar groups of lawyers and judges; I have consulted with lawyers and judges about problems of legal and judicial ethics; and I have testified and submitted affidavits and declarations in litigation on issues relating to legal and judicial ethics in many jurisdictions in the United States and in cases pending in courts in Australia, Canada, England, and Japan. Other information on my qualifications is given in my resume, a current copy of which is attached as Exhibit 1.

FACTS

4. In November, 1999, FGK&S began to represent Time Warner in a lawsuit named Scholastic Inc., et al. v. Stouffer (S.D.N.Y. 99 Civ. 11480 (AGS)) ("Stouffer"). The action, which is still pending, seeks a declaration that there is no merit in the assertion by a writer, Nancy Stouffer ("Stouffer"), of an exclusive interest in the name "Muggles." In Stouffer, FGK&S represents both Scholastic Inc. ("Scholastic") (a long-standing and major client of the firm)and the asserted infringing author J.K. Rowling ("Rowling"), in addition to Time Warner. The litigation arises out of the *Harry Potter* series of books, written by Ms. Rowling and published by Scholastic. Time Warner, by contract with Ms. Rowling, owns the movie and merchandising rights to two of the *Harry Potter* books. Although I do not know this to be a fact, it would be quite customary in such arrangements (and quite consistent with the known facts) for either Ms. Rowling or Scholastic to have contractually agreed to indemnify Time Warner with respect to its rights, and I assume such an arrangement was entered into here. Scholastic, which has controlled the litigation from its outset, directed FGK&S to

join Time Warner as additional co-plaintiff along with Scholastic and Ms. Rowling. Joinder, of course, was dependent on Scholastic's success in obtaining Time Warner's permission to do so. Scholastic reported back to FGK&S that Time Warner did not object to being named co-plaintiff. No FGK&S lawyer ever communicated with anyone at Time Warner prior to filing the Stouffer action.

5. The Stouffer lawsuit was filed on November 22, 1999. To date, the principal activity in the case has consisted of resisting the personal-jurisdiction objection of Ms. Stouffer (a resident of Pennsylvania). In its representation of Scholastic, Ms. Rowling, and Time Warner, FGK&S is paid only by Scholastic. Time Warner has paid nothing and is not expected to do so.

6. Ms. Stouffer thereafter filed a responsive trademark infringement action (along with other claims) in federal court in Philadelphia against the Stouffer action plaintiffs. Local counsel retained on behalf of all the Stouffer defendants has obtained an extension of time to respond to the complaint to June 7, 2000.

7. Because the interests of Time Warner in the Stouffer litigation are derivative of the rights of Ms. Rowling, the activities of FGK&S in the litigation on behalf of Time Warner in Stouffer have been quite limited, consisting only of occasional reports by telephone or letter to Time Warner inside counsel concerning the progress of the action, and one two-day period during which there were some telephone conversations with Time Warner representatives to be sure that the positions of the plaintiffs in Stouffer were consistent with their other interests in merchandising the "Muggles" mark. No FGK&S lawyer has ever personally met with any Time Warner lawyer. No Time Warner person played any role in the pre-suit negotiations with Ms. Stouffer and her representatives or in planning the Stouffer declaratory judgment action. Time Warner has not commented on drafts of papers that it was provided. Neither the brief discussions with Time Warner about the "Muggles" marks nor any

other work that FGK&S has done in the Stouffer matter has exposed FGK&S to any proprietary or confidential information of Time Warner that was not also a secret or confidence of Ms. Rowling, the ultimate owner of all marks relating to the *Harry Potter* series, or of Scholastic. Nothing that FGK&S learned in the Stouffer matter has any material bearing on any issue in this litigation. No FGK&S lawyer has obtained any information relating to the present litigation from Time Warner during their Stouffer work.

8. The present action was filed by the eight largest and most well-established media corporations–Universal, Paramount, MGM, Tristar, Columbia, Time Warner, Disney and 20th Century Fox–against the publisher of 2600 Magazine. (Other defendants were dropped after they executed a consent decree and the magazine was added as a defendant.) The action alleges serious violations of federal intellectual-property law, including the Digital Millennium Copyright Act (17 U.S.C. § 1201 et seq.). (As indicated in its annotations, the Act has not to date been litigated, either as to its meaning or the constitutionality of its application.) The publisher defendant is relatively inexperienced in business, and has no significant familiarity with the legal system or the retention of lawyers. After the action was filed in mid-January of this year, a California law firm (Huber-Samuelson APC in San Jose) was contacted, which had defended against similar allegations in litigation there. A California-based nonprofit organization, Electronic Frontier Foundation ("EFF"), also provided legal and financial support from its limited budget. Because neither Huber-Samuelson nor EFF had a New York office, however, they were unable to commit to provide a complete defense, and sought to assist the defendants in locating outstanding local counsel. They sought a law firm large enough to sustain a defense against the legal and litigation resources of the eight large corporate plaintiffs. That need became acute once the Court granted plaintiffs the preliminary injunction. They also required counsel

experienced in presenting First Amendment defenses, which apparently will be a principal defense of defendants. The statutory and constitutional defenses, based on an untested statute, will likely lead from trial, through appellate courts and quite possibly to the Supreme Court. Moreover, they sought a law firm experienced in countering negative publicity of the kind they perceived to be generated by the plaintiff corporations and their trade association allies. Finally, because of the predicted high cost of a successful defense and their limited funds, defendants sought a firm willing to reduce its normal fees in order to permit the defense to sustain the prolonged battle for vindication. All lawyers interviewed in New York were either unavailable because of either time constraints or conflicts with one or more of the plaintiff corporations or did not wish to make the fee reduction necessary.

9. In early March of this year, defendants were referred to FGK&S's Martin Garbus, a well-known New York lawyer who has for decades specialized successfully in First Amendment litigation, including Supreme Court litigation, who has battled large corporate adversaries and their law firms, who has had experience in countering adverse media campaigns (including through contacts among media clients of his firm), whose firm included other lawyers who had the technical expertise to understand the complex computer programming issues involved, and whose firm–because of its ideological commitment to First Amendment issues–was prepared to offer a reduced fee in order to sustain the litigation over its probable extended course.

10. From the time FGK&S appeared in this matter on March 14, Mr. Garbus and other FGK&S lawyers have spent many hours being brought up to speed on the technical issues, developing a discovery plan, noticing the taking of the depositions of ten witnesses, serving third-party subpoenas, and interviewing dozens of witnesses, experts and consultants. They also drafted extensive papers in opposition to a motion by plaintiffs to expand the scope of the preliminary injunction and

in support of certain cross motions. The defense has already expended more than $100,000 in billable hours payable to Mr. Garbus and his firm. Defendants believe it would be extremely difficult to locate another New York law firm with the credentials and other qualifications that Mr. Garbus and FGK&S possess, and who would be willing to represent defendants for a reduced fee.

ANALYSIS

11. In my opinion as an expert in the ethics of lawyers, the FGK&S law firm proceeded appropriately in agreeing to represent the defendants in this action, notwithstanding that they represented Time Warner–one of several co-plaintiffs here–as a nominal client in other litigation. To be sure, the general rule is that a law firm may not be adverse to a current client, as by defending one client in a lawsuit brought by another client, even if the matters are factually unrelated. See, e.g., Restatement of the Law Governing Lawyers § 209(2) (proposed final draft no. 1, Mar. 29, 1996). In those typical situations, the law firm cannot cure the conflict by withdrawing from representation of the objecting client (even if withdrawal were otherwise permissible) because of the so-called "hot potato" rule, which precludes cure of a concurrent-representation conflict by withdrawal. See Restatement, supra, § 201, Comment (e)(i) & § 213, Comment (c).

12. However, it is also quite clear in Second Circuit and Southern District decisions that the application of those general rules can vary enormously, depending on the type of client who might object. The per se disqualification rule is retained in its full vigor only for those clients who fit the courts' description of "primary" or "direct" clients. On the other hand, clients who are properly regarded as secondary, nominal, accommodation, peripheral or indirect clients are not so protected.

13. It is troubling to note[1] that the motion papers of plaintiffs fail to cite or attempt to distinguish the Commercial Union decision, decided by this very Court and involving quite similar facts. In my opinion the concepts and rationale on which Commercial Union rests, together with its supporting and controlling authority, indicate that the motion of Time-Warner here is ill-founded. Commercial Union is one of a number of Second Circuit[2] and Southern District[3] decisions that have substantially restricted the more wide-sweeping disqualification approach of some cases from the 1970's, decided in the early, more-enthusiastic years of substantial judicial involvement in disqualification questions.[4]

14. Those recent decisions draw an important distinction between (1) a client with whom a law firm has a traditional client-lawyer relationship–the "primary" client–who alone is entitled to protection through the drastic remedy of disqualification, and (2) a client with whom the firm has

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[1] Compare New York Code of Professional Responsibility DR 7-106(B)(1) ("In presenting a matter to a tribunal, a lawyer shall disclose . . . (1) [c]ontrolling legal authority known to the lawyer to be directly adverse to the position of the client and which is not disclosed by opposing counsel.").

[2] This Court in Commercial Union cited and relied upon Glueck v. Jonathan Logan, Inc., 653 F.2d 746 (2d Cir. 1981). Of parallel import is the line of cases beginning with Allegaert v. Perot, 565 F.2d 246 (2d Cir. 1977), discussed in ¶ 15, below.

[3] This Court in Commercial Union cited Hartford Accid. & Indem. Co. v. RJR Nabisco, Inc., 721 F. Supp. 534 (S.D.N.Y. 1989); and Carro, Spanbock, Kaster & Cuiffo v. Rinzler, 1992 WL 196758 (S.D.N.Y. 1992). Earlier decisions include American Special Risk Ins. Co. v. Delta America Re Ins. Co., 634 F. Supp. 112, 121-22 (S.D.N.Y. 1986) (Leval, J.) (mere "nominal" client not entitled to move to disqualify), and C.A.M v. E.B. Marks Music, Inc., 558 F. Supp. 57, 59 (S.D.N.Y. 1983) (Milton Pollack, J.) (non-primary client could not obtain disqualification; in addition, lack of substantial relationship between matters).

[4] Many of the decisions on which Time-Warner relies come from this set of decisions of an earlier vintage, which have long since been modified or narrowed, at least with respect to their dicta.

only an attenuated relationship of a kind that does not warrant disqualification. In general, primary clients are those with whom the firm carries on the typical sort of relationship. Such clients typically retain the firm initially, explicitly enter into a contractual relationship with the firm (often through a process of negotiation), arrange for payment with and pay the firm, and take an active part in directing and controlling the firm's activities. They are also often an important source of information about the litigation or other matter involved in the representation, and thus typically deal both frequently and on a confidential basis with the firm's lawyers.

15. Non-primary clients come in various shapes and sizes. Many, such as the add-on or accommodation client in the leading case of Allegaert v. Perot, 565 F.2d 246 (2d Cir. 1977), are represented by the law firm merely as an accommodation to them as momentary allies–for example, because maintenance of their position is at the time of importance to the lawyer's primary client.[5] Those clients are so situated that it must be apparent to them that the lawyer's ultimate allegiance is to the primary client. They thus could not reasonably expect that the law firm would keep any information of interest to the primary client confidential from it. Decisions in the Allegaert line of authority therefore conclude that the firm can drop the accommodation client (like a hot potato, or otherwise) and file suit against the former accommodation client. Quite beyond the facts in the present litigation, Allegaert permits such adverse representation even with respect to a matter

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[5] In describing and accepting the Allegaert v. Perot concept in the Restatement of the Law Governing Lawyers (see § 213, Comment i & Illustration 9 (proposed final draft no. 1, Mar. 29, 1996), we defined the circumstances indicating such an accommodation representation as follows: ". . . Circumstances most likely to evidence such an understanding are that the lawyer has represented the regular client for a long period of time before undertaking representation of the other client, that the representation was to be of limited scope and duration, and that the lawyer was not expected to keep confidential from the regular client any information provided to the lawyer by the other client. . . ." (Id. Comment i, at 720).

substantially related to the matter in which the law firm represented the accommodation client. Those decisions thus involve significant limitations on what would otherwise constitute "Canon 4"[6] or confidentiality-based conflicts of interest–conflicts that have been treated with special solicitude by courts in other situations.

16. Commercial Union represents an important, but quite consistent, addition to the Allegaert concept.[7] This Court there permitted a law firm to withdraw from representation of a secondary client in an unrelated matter in order to proceed adversely against the now-former client in a matter that, by definition, was not substantially related to the former matter. Because Commercial Union involved only a Canon 5[8] "loyalty" basis for disqualification, rather than a Canon 4 confidentiality-based ground, it very readily conforms to the"taint the trial" standard that the Second Circuit for some time has insisted is the strong showing necessary to obtain disqualification.[9] As this

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[6] The reference is to the confidentiality rules of Canon 4 of the New York Code of Professional Responsibility.

[7] We anticipated such a result in the treatment of the accommodation-client concept in the Restatement, supra n. 5, at 720 (". . . If adverse interests later develop between the clients, even if the adversity relates to the matter involved in the common representation, circumstances might warrant that the 'accommodation' client understood and impliedly consented to the lawyer's continuing to represent the regular client in the matter. . . ."). Commercial Union takes the concept a small step farther, permitting adverse representation of another client who was not the "primary" client in the original matter. There is no theoretical or practical difference between the two situations, and the result in Commercial Union is, in my opinion, entirely consistent with both Allegaert and the Restatement position.

[8] Canon 5 of the New York Code of Professional Responsibility addresses conflicts of interest generally, and thus, strictly speaking, refers to both confidentiality-based and loyalty-based conflicts. The "Canon 5" parlance, however, is quite commonly employed by lawyers and ethics scholars in New York.

[9] Again, we have alluded to the Second Circuit standard as the limiting basis for grants of a disqualification motion in the Restatement. See § 6, Comment i (proposed final draft no. 2, Apr. 6, 1998) & reporter's note thereto at 87.

Court stated in Commercial Union, "the Second Circuit has made clear that disqualification is appropriate only if a violation of the [New York] Code gives rise to a significant risk of trial taint. . . ." (Footnote omitted.) This Court also noted how the traditional per se disqualification rules referred to in older decisions had yielded to a more fact-specific set of alternative guidelines, principally stemming from the approach in Glueck v. Jonathan Logan, Inc., 653 F.2d 746 (2d Cir. 1981), where the court initially drew the distinction between primary and other clients (there termed vicarious).

17. The facts here seem closely to parallel those in Commercial Union, and they similarly strongly indicate that the activities of the FGK&S law firm have been entirely appropriate. That decision involved a "client" subrogor who was bound by a contract of insurance to assign to Commercial Union, its insurer, its right to prosecute and recover any claim against others responsible for the insured loss. In those circumstances, the subrogor was held to be only a vicarious client and thus not entitled to disqualify the law firm. Here, the involvement of Time-Warner in the Stouffer litigation was similarly of no economic consequence to Time-Warner, as it was paying no legal fees and (as I assume) its interests were fully protected pursuant to its contractual arrangements for indemnification with either or both of Ms. Rowling and Scholastic. In pecuniary terms, the situation is precisely the same as would be the case were Ms. Rowling an insurer of Time Warner. There is also a strong similarity between Commercial Union and this case with respect to the minimal involvement of the affected "client" as a practical matter in the litigation. Although the subrogation case in Commercial Union was brought in the name of the subrogor, Commercial Union hired and paid the law firm and entirely directed its activities, including with respect to settlement. In the Stouffer representation, although Time Warner is a named plaintiff, even that was at the direction of FGK&S's

primary client, Scholastic. Scholastic alone hired and is paying FGK&S. Scholastic is also entirely (along with Ms. Rowling) directing its activities. Time Warner plays no part in instructing and controlling the activities of FGK&S in Stouffer. Although the subrogor in Commercial Union took a somewhat active role in the litigation–providing documents and other information pursuant to the cooperation clause of the policy–the Court nonetheless held that the law firm "cannot be said to stand in a traditional attorney-client relationship" with the subrogor (75 F. Supp. 2d at 111). Similarly, in the Stouffer representation, Time-Warner has played a relatively minor role, and in any event a role that, as far as the activities of FGK&S were concerned, was dictated entirely by considerations of the ultimate success of FGK&S's primary clients, Scholastic and Ms. Rowling. Thus, Time-Warner's relationship with FGK&S as its counsel in the Stouffer matter is fully as attenuated as was the relationship between the subrogor of Commercial Union and the insurer there.

18. Again as with the Court's analysis in Commercial Union (see 75 F. Supp. 2d at 112), so here, representation of Time-Warner in the Stouffer matter does not involve any issue of fact common to any issue that will arise in this litigation. The litigations are thus properly regarded as having no factual connection–a fact that Time Warner has conceded. It necessarily follows as well that there is no realistic risk that information about Time-Warner that FGK&S might have learned in Stouffer could be used adversely to Time-Warner here. Accordingly, as in Commercial Union, the objecting client is a secondary client whose interests do not warrant protection through the drastic remedy of disqualification.

19. Other factors strongly suggest that this would be an inappropriate case for the Court to accept the movant's invitation to employ the drastic remedy of disqualification. A pattern familiar in many disqualification cases is that the motion is filed by a defending party (either the

defendant or a plaintiff facing a substantial counterclaim), and thus where the situation suggests that delay may be motivating the motion. Here, a plaintiff has filed the motion, which could possibly be read as suggesting that delay is not its motive. However, the facts clearly indicate that this "Goliaths v. David" litigation is one of the cases–relatively rarely encountered among cases in general, but commonly seen in intellectual-property litigation–in which claimants with enormous resources face adversaries that are only marginally funded. Moreover, here the Goliaths have obtained a preliminary injunction, thus effectively providing them with the relief they seek for as long as they can keep the litigation from coming to a contrary substantive outcome. Clearly, delay through a disqualification motion furthers that end. Accordingly, one should approach the motion just as cautiously as in the usual instance of delay-suggestive motions.

20. Compounding the effects of delay here is the relatively marginal economic situation of the defendants, who are opposing eight large and well-resourced plaintiffs represented by one of the nation's largest and most experienced law firms. The search of defendants for counsel has been long and, until recently, unsuccessful. While other highly experienced and motivated advocates possibly exist who might serve as substitute counsel, that is both doubtful and, at a minimum, will require both additional time and a further expenditure of relatively scarce capital on the part of defendants. As with other such situations, their choice of hard-found counsel should be respected if at all possible.

21. An additional troubling fact is that Time Warner took a very long time to notify FGK&S of its conflicts objection. The response of Time Warner to this Court's expression of concern about its delay in objecting was that the enormous size of its legal department made a prompt response bureaucratically infeasible. Such a response should be unavailing. Surely, there cannot be

radically different rules for different types of litigants–one demanding prompt objection by individuals and small companies, with a more relaxed rule for large and complex organizations. To the contrary, the delay of Time Warner own inside lawyers in coming to realize that the asserted conflict exists suggests that the company is relatively immune from the kinds of loyalty problems that are said to justify limitations on concurrent-representation conflicts involving factually unrelated matters.

22. Similarly troubling, in my opinion, is evidence to be submitted by FGK&S indicating that Time Warner has apparently had multiple recent opportunities to object to other representations by FGK&S that were similarly adverse to Time Warner, but in which Time Warner chose not to object. While Time Warner has claimed (indeed it is its only claim) that "principle" alone has motivated its motion to disqualify here, more is needed to explain its differentiated behavior–objecting here but not elsewhere in comparable circumstances. As for the purported principle involved, several courts have rightly commented that federal courts in disqualification situations do not sit as state boards of lawyer ethics. If Time Warner feels that an important "principle" is at stake–although one that has no discernible impact upon this case and one that excites Time Warner's interest only in selected matters–other avenues are theoretically available. Without suggesting that there would be any merit to such an effort here, courts in other situations have pointed out that a client with a principle but no trial-taint injury can complain to the state lawyer-disciplinary authorities or seek other relief.[10] E.g., SWS Financial Fund A v. Salomon Bros., Inc., 790

[10] Of course, the universal practice of lawyer disciplinary agencies is not to become embroiled as additional combatants in disqualification or other matters in private litigation in the absence of a showing of venal intent or a blatant violation of lawyer code rules. Such is obviously not present here. As for civil remedies, the only one that comes to mind is a defense to a claim for legal fees, but that is obviously irrelevant here, because Time Warner is a free rider in Stouffer and could show no harm in any event.

F. Supp. 1392, 1400 (N.D. Ill. 1992); Gould Inc. v. Mitsui Mining & Smelting Co., 738 F. Supp. 1121, 1127 (N.D. Ohio 1990).

23. This case is plainly not one of those rare instances in which a motion for disqualification is warranted. The activities of FGK&S have been open, above-board, in compliance with the New York Code of Professional Responsibility and in full accord with controlling precedents in the Southern District and the Second Circuit. In view of several troubling indications in the facts that this is one of those heavily disfavored motions interjected solely for strategic advantage, it should be promptly rejected.

24. I declare that the foregoing is true and correct and given under penalty of perjury under the laws of the United States and of the State of New York, and that I executed it this 13th day of May, 2000.

Charles W. Wolfram

EXHIBIT 1

RESUME

Charles W. Wolfram

Present Position

Charles Frank Reavis Sr. Professor of Law, Emeritus
Cornell Law School

Education

Pre-Law: University of Notre Dame, South Bend, Indiana. B.A., cum laude, 1959.

Law School: University of Texas Law School, Austin, Texas. Graduation, LL.B., with honors, 1962. Coif. Note Editor, Texas Law Review. Student Assistant, Legal Aid Clinic.

Practice

Covington & Burling, Washington, D.C. Associate, 1962-64.

Federal Aviation Agency. Hearing officer for Contract Appeals Panel, 1964-65.

Since 1965 -- consultation with lawyers and law firms on professional responsibility and court procedure problems; representation of indigent clients; consultant and expert witness in legal malpractice, disqualification, professional discipline, and other litigation involving the professional responsibility of lawyers.

Admitted: District of Columbia and Minnesota.

Academic

Cornell Law School: Interim Dean, August, 1998-June, 1999; Charles Frank Reavis Sr. Professor of Law Emeritus, July, 1999--; Charles Frank Reavis Sr. Professor, 1984-99; Acting Associate Dean for Academic Affairs, January-June, 1994; Associate Dean for Academic Affairs 1986-1990; professor since 1982; visiting professor 1981-82. University of Minnesota Law School: professor 1970-1982; associate professor 1967-1970; assistant professor 1965-1967; acting associate dean 1978. University of Southern California Law Center: visiting professor 1976-1977.

Courses taught (1965-1995): legal ethics; civil procedure; federal jurisdiction; conflict of laws; remedies; legal process. Continuing legal education lecturer on various subjects in legal ethics, judicial ethics, and civil procedure.

Memberships

Law School. Cornell: faculty appointments committee (1998-99); curriculum committee (chair) (1989-1991); admissions and financial aid committee (chair, 1993-95); steering committee, Cornell Journal of Law and Public Policy. Faculty editor, Cornell Law Forum (1983-86).

University. Cornell: Member, Financial Policies Committee (elected by all-University faculty) (1994-96); Chair, University Review Board (appointed by President of Cornell University; campus review board in faculty, student and staff discipline cases) (1989-1992).

Professional. American Law Institute: Institute member (1981 --); Chief Reporter for Restatement of the Law Governing Lawyers (1986 --); Members Consultative Group, Restatement (Third) of Agency (1997 --). American Association of Law Schools: Advisory Task Force on Pro Bono and Public Service Opportunities in Law Schools (1997-99); Section on Professional Responsibility, chair (1983-1984), member of executive committee (1981-85); Planning Committee for Professional Responsibility Teachers Workshop (1983-84).

Non-Academic. Consultant, Working Group on Ethics, National Bankruptcy Review Commission, 1996-97. Committee on Legal Education and Admission to the Bar, New York State Bar Association, 1986-1990. Member, Advisory Council, Texas Center for Legal Ethics and Professionalism, 1991--; member, Program and Projects Committee (1994--). Consultant, Chief Counsel of Office of Thrift Supervision (Department of the Treasury), 1991. Consultant, Grievance Oversight Committee of the Supreme Court of Texas, 1988. At-Large Director, University of Texas Law School Association, 1980-1983. Minnesota Student Legal Services Board of Directors, 1979-1981. Consultant, ABA Committee on Public Understanding of the Law, 1981. Hennepin County (Minnesota) Bar Association Ethics Committee (1979-1981). Minnesota State Bar Association Committee on Judicial Administration (1979-1981). Reporter, Minnesota State Bar Association Committee to Study the Kutak Commission Report (1979-80) (drafted *Report* of the Committee, 37 Minnesota Bench and Bar 63-89 (July/August 1979)). Steering Committee of Minnesota State Bar Long-Range Planning Committee (1980-1981). Board of Overseers, Bayville (Maine) Village Corporation, Member, 1994--, Chairman, 1997--.

Recipient: Sanford D. Levy Memorial Award from Committee on Professional Ethics, New York State Bar Association, 1985; J. Morris Clark Memorial Award from Hennepin County Bar Association, 1980.

Research and Publications

Sponsored Research:

Cornell Law School Faculty Research Leave (1988-89; 1989-90; 1990-91); sabbatical leave (January-June, 1985; academic year of July, 1991-June, 1992).

Cornell Law School Summer Research Grant (1982, 1983, 1984).

University of Minnesota, quarter leave, 1975-1976.

Faculty Summer Research Grant, University of Minnesota Graduate School, 1967.

Minnesota Law Alumni Association Summer Research Grants (1969, 1972, 1974, 1977, 1980); Goodrich Fund Summer Research Grant (1978); Fesler Summer Fellowship Grant (1979).

American Bar Foundation National Class Action Project (1973-1975; 1978-1983).

Working Group on Ethics in the Legal Profession, University of Maryland Center for Philosophy and Public Policy (1980-1982).

American Law Institute, chief reporter for the *Restatement of the Law Governing Lawyers* (1986--).

PUBLICATIONS:

Books:

Restatement of the Law Governing Lawyers (American Law Institute)--various Tentative Drafts, Council Drafts, Preliminary Drafts, Proposed Final Drafts--1986--.

Modern Legal Ethics (West Publishing Company, 1986; Practitioner's and Student's Editions). (Listed among "Most Cited Treatises and Texts" published in last twenty years in Fred R. Shapiro, The Most-Cited Legal Books, 18 *Legal Information Alert* 1, 6 (September, 1999).)

(With the late Professor J. Morris Clark) *Professional Responsibility: Issues for Minnesota Attorneys* (two volumes) (Minnesota Continuing Legal Education 1976).

Articles, Book Chapters, and Miscellany:

"Multidisciplinary Practice of Law: The Dawn of a New Age?," 26 William Mitchell Law Review ___ (2000) (invited lecture; revised version for publication in draft).

"The ABA and MDPs: Context, History, and Process," 85 *Minnesota Law Review* ___ (2000) (invited paper included in symposium issue on multidisciplinary practice; submitted for publication).

"Multidisciplinary Partnerships in the Law Practice of European and American Lawyers" (chapter 11 in *Lawyers' Practice and Ideals–A Comparative View* (John J. Barceló & Roger C. Cramton, eds., 1999)).

"Corporate Family Conflicts," 2 *Journal of the Institute for the Study of Legal Ethics* 296 (1999) (invited paper included in symposium issue on legal ethics).

"Bismarck's Sausages and the ALI's Restatements," 26 *Hofstra Law Review* 817 (1998) (invited paper in symposium issue on political influences on the process of the American Law Institute in generating restatements of the law).

"The Boiling Pot of Lawyer Conflicts in Bankruptcy," 18 *Mississippi College Law Review* 383 (1998) (invited paper included in symposium on bankruptcy).

"Inherent Powers in the Crucible of Lawyer Self-Protection: Reflections on the LLP Reform Legislation," 39 *South Texas Law Review* 359 (1998) (invited paper published as part of symposium on law practice in organizations).

"Selecting Clients: Are You Free to Choose?,"*Trial Magazine* 21 (January 1998) (invited paper on Massachusetts agency decision requiring woman divorce lawyer to represent male clients).

"Former Client Conflicts," 10 *Georgetown Journal of Legal Ethics* 677 (1997) (invited paper published as part of symposium issue on the Restatement of the Law Governing Lawyers).

"Lights, Camera, Litigate: Lawyers as Media Figures in the U.S. and Canada," 19 *Dalhousie Law Journal* 373-410 (1996) (invited paper based on lecture at Dalhousie University, Halifax, Nova Scotia).

"Regulation of the Legal Profession" (Chapter 1 of *Restatement of the Law Governing Lawyers*; Preliminary Draft No. 12, May 15, 1996) (together with revised versions of Chapters 6 and 7).

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"Mass Torts--Messy Ethics," 80 *Cornell Law Review* 1228 (1995).

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"The U.S. Law of Client Confidentiality: Framework for an International Perspective," 15 *Fordham International Law Journal* 529 (1992), reprinted as Chapter 7 in Mary C. Daly & Roger J. Goebel eds., *Rights, Liability, and Ethics in International Law Practice* (1995).

"Scottsboro Boy in 1991: The Promise of Adequate Criminal Representation Through the Years," 1 *Cornell Journal of Law and Public Policy* 61 (1992).

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"Foreword" to Robert W. Hillman, *Law Firm Breakups* (Little Brown 1990), at xv-xviii.

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"The Concept of a Restatement of the Law Governing Lawyers," 1 *Georgetown Journal of Legal Ethics* 195 (1987).

"Legal Process and Social Change in the History of Industrial Accidents," 12 *Cornell Law Forum* 10 (February 1985).

"The Ethics of Lawyers," 11 *Cornell Law Forum* 10 (June 1984).

"The Duty of a Lawyer to Represent Clients, Repugnant and Otherwise," in *The Good Lawyer* (D. Luban ed.; Rowman and Allenheld, 1984).

"The Second Set of Players: Lawyers, Fee Shifting and the Limits of Professional Discipline," 47 *Law and Contemporary Problems* 293-320 (1984).

"Client Perjury: The Kutak Commission and the Association of Trial Lawyers on Lawyers, Lying Clients, and the Adversary System," 1980 *American Bar Foundation Research Journal* 964-980.

"In Memoriam: J. Morris Clark," 63 *Minnesota Law Review* 764-766 (1979).

"The Code of Professional Responsibility as a Measure of Attorney Liability in Civil Litigation," 30 *South Carolina Law Review* 281-319 (1979).

"Barriers to Effective Public Participation in Regulation of the Legal Profession," 62 *Minnesota Law Review* 619-647 (1978).

"Client Perjury," 50 *Southern California Law Review* 809-870 (1977).

"The Antibiotics Class Actions," 1976 *American Bar Foundation Research Journal* 251-363.

"The Constitutional History of the Seventh Amendment," 57 *Minnesota Law Review* 639-747 (1973).

"Maynard E. Pirsig: Idealism in the Service of Judicial Administration," 54 *Minnesota Law Review* 908-915 (1970).

Book Review of Cound, Friedenthal & Miller, Civil Procedure: Cases and Materials (1968), in 21 *Journal of Legal Education* 355-363 (1969).

"Notes from a Study of the Caseload of the Minnesota Supreme Court: Some Comments and Statistics on Pressures and Responses," 53 *Minnesota Law Review* 939-976 (1969).

Recent Speeches, Lectures, Interviews, Unpublished Research, and Works in Progress:

Modern Legal Ethics (second edition in progress).

Restatement of the Law Governing Lawyers (entire work approved by American Law Institute at meeting on May 12, 1998; two-volume work to be published in 2000).

"The Conflicts of Migratory Lawyers" (presentation at meeting of ABA Section on Environmental Law, Keystone, Colorado, March 12, 2000).

"In-House MDPs?" (column in "Corporate Brief" Section of National Law Journal, March 6, 2000, at B6).

"The ABA and MDPs: Context, History, and Process" (paper presented at "The Future of the Profession: A Symposium on Multidisciplinary Practice" at University of Minnesota Law School, February 26, 2000; to be published with other symposium papers).

"Reflections on the Drafting of a Restatement" (faculty colloquium at University of Kentucky College of Law, February 10, 2000).

"Lawyers of Integrity" (invited lecture at University of Kentucky College of Law, February 10, 2000).

"Multidisciplinary Practice of Law: The Dawn of a New Age?" (invited Centennial Public Square Lecture at William Mitchell College of Law, St. Paul, Minnesota, November 9, 1999).

"Changes in the Practice of Law: Multidisciplinary and Multi-Jurisdictional Practice" (presentation at Colorado Bar Association Annual Convention in Vail, Colorado, September 24, 1999).

"The Threat and Promise of Multidisciplinary Practice" (presentation to Professional Responsibility Seminar of Minnesota Board of Lawyers Professional Responsibility in St. Paul, Minnesota, September 10, 1999).

"Ethical Dilemmas in the Courtroom" (panelist with members of federal and state judiciary discussing judicial independence and related issues, at Cornell Law School Reunion meeting, June 11, 1999).

"The Restatement of the Law Governing Lawyers" (panelist at plenary session of Fifth Circuit Judicial Conference in Houston, Texas on Thursday, April 29, 1999, discussing selected provisions of Restatement, including those on lawyer liability to non-clients, lawyer contact with a represented person, and conflicts in insurance-defense representations).

"American Lawyers in a Golden Age" (invited lecture at Saint Louis University School of Law, March 20, 1999; to be published in Saint Louis University Law Review).

"Trans-jurisdictional Law Practice: The Emerging Issues" (panelist at joint session of Association of Professional Responsibility Lawyers and National Organization of Bar Counsel in Los Angeles California, February 5, 1999, in conjunction with mid-year meeting of American Bar Association).

"Public Service in the Golden Age of Lawyering" (speech to Admittees to Bar of the New York Appellate Division, Third Department, Albany, New York, January 26, 1999).

"The Restatement and Client-Lawyer Confidentiality," (talk in course of Association of the Bar of the City of New York Professional & Judicial Ethics Committee Symposium on the Proposed Restatement (Third) of the Law Governing Lawyers, New York City; November 3, 1998).

"The Restatement of the Law of Lawyering," (speech to State Bar of Michigan Institute of Continuing Legal Education program on Ethics and Professional Responsibility: Present and Future," Troy, Michigan; October 22, 1998).

"Multistate Practice by In-House Corporate Lawyers" (invited paper given at conference of General Electric Corporation Intellectual Property Lawyers Group in Canadensis, Pennsylvania, on June 3, 1998).

"Corporate Family Conflicts" (invited paper presented during Hofstra University School of Law Symposium on "Ethics and Access to Justice," April 7, 1998, published with symposium papers in 2 *Journal of the Institute for the Study of Legal Ethics* 295 (1999)).

"The Bermuda Triangle of Ethics: Insurance Company, Policyholder, and Defense Counsel" (participant in panel discussion before Association of the Bar of the City of New York, February 3, 1998).

NBC News Today Show (interviewed by Matt Lauer on December 1, 1997 (along with attorney Lawrence J. Fox of Philadelphia) on whether the D. C. Circuit correctly ruled that Vincent Foster's lawyer could be ordered to testify before special prosecutor Starr's grand jury about confidential disclosure made by Foster to his lawyer days before his suicide). Similar interview on same topic on *NBC News Today Show* on June 8, 1998, and taped with *CBS Television News* and *NBC Nightly News* on June 5, 1998, broadcast in news programs over

weekend and on Monday, June 8, 1998 in connection with oral argument in United States Supreme Court.

"Inherent Powers in the Crucible of Lawyer Self-Protection: Reflections on the LLP Reform Movement" (invited paper presented at Symposium at South Texas Law School in September, 1997 on ethical problems in practicing in groups).

"'Multi-Disciplinary Partnerships' in the Law Practice of European and American Lawyers," (invited paper presented at Cornell Law School-W. M. Keck Foundation Symposium on "Lawyers' Practice and Ideals: A Comparative View," on July 5, 1997, at the Cornell Law School-Université de Paris I (Panthéon-Sorbonne) Summer Institute of International and Comparative Law, and at Presidential Showcase panel discussion of American Bar Association Section of International Law, San Francisco, August 3, 1997).

"The Georgetown Journal of Legal Ethics and the Restatement," (introductory remarks to symposium in Washington, D.C., on February 7, 1997, commemorating tenth anniversary of Georgetown Journal); "The Corporate Privilege and Immunity from Lawyer Investigators: Other Possible Perspectives" (discussion of corporate attorney-client privilege and application of anti-contact rule to corporate agents and employees, delivered at same symposium).

"Lights, Camera, Litigate: Lawyers as Media Figures in the U.S. and Canada" (F.B. Wickwire Memorial Lecture at Dalhousie University Law School (Halifax, Nova Scotia) on November 14, 1996; revised version printed as article in the *Dalhousie Law Journal*, above).

"The Vaporous and the Real in Former-Client Conflicts of Interest" (delivered as lecture on March 11, 1996 at Hofstra University School of Law in Hempstead, New York, and subsequently published in *Journal of the Institute for the Study of Legal Ethics*, above).

"Insurance-Defense Lawyers as Targets: The Restatement as the Cross Hairs?" (materials prepared as part of panel presentation at University of Texas School of Law Insurance Law Institute, Austin, Texas, September 27, 1996).

Discussions with Ethics Working Group of National Bankruptcy Review Commission, Sante Fe, New Mexico, September 19, 1996, and Washington, D.C., January 22, 1997, and presentation to members of Commission on May 15, 1997 (participation in discussion of possible revisions of federal Bankruptcy Code on lawyer conflicts of interest).

"Lawyers Retained by Liability Carriers to Represent Insureds in the Restatement of the Law Governing Lawyers," (co-authored with Professor Thomas D. Morgan) (published in ABA Section of Litigation--Committee on Insurance Coverage Litigation publication *Coverage* (volume 6, number 2; March/April, 1996).

"The Ethics of Bankruptcy Practice and the *Restatement of the Law Governing Lawyers*" (presentation as part of panel at meeting of American Bar Association, Section of Business Law (Bankruptcy), August 8, 1995).

"Law Firm Conflict-of-Interest Screening: Steps That Will Minimize the Risks in Former-Client Situations," *Law Firm Partnership and Benefits Report* (Vol. 1, No. 4; May 1995).

"Do Ethics Codes Matter?" (presentation as part of panel discussion of legal and judicial ethics at plenary session of Fifth Circuit Judicial Conference, New Orleans, Louisiana, May 23, 1995).

"Sneaking Around in the Legal Profession: Interjurisdictional Unauthorized Practice by Transactional Lawyers" (lecture at University of South Texas School of Law, February 24, 1995 --subsequently published in revised form in *South Texas Law Review*, above).

"What to Do If Management Does Not Support Recommended Disciplinary Actions" (presentation as part of panel discussion of ethical issues at Money Laundering Enforcement Seminar of American Bankers Association, Washington, D.C., October 28, 1994)

"The Changing Face of Judicial Ethics--From Aspiration to Regulation" (lecture to Canadian Institute for Advanced Legal Studies, Cornell Law School, July 14, 1994).

"An Unhealthy Bloom of Federal Court Rules Governing Lawyers?" (remarks at panel discussion on *Ethics in the United States Court of Appeals and District Courts* at Second Circuit Judicial Conference, Bolton Landing, New York, June 17, 1994); see 160 F.R.D. 345-50.

"Opposing Counsel: Deposition Conduct--Con" in *Litigation News*, Vol. 19, No. 5 (June, 1994) (written remarks on judicial attempt to solve witness-coaching problem).

"Horseshoes and Hand Grenades: Corporate Counsel Advice to Clients About White-Collar Crime" (CLE presentation to the Corporate Counsel Section of the Utah State Bar, April 8, 1994, Salt Lake City, Utah).

"The Substantial-Relationship Concept in Former-Client Conflicts of Interest" (Isaac Pitblado Lecture before Law Society of Manitoba, Winnipeg, November 19, 1993--published 1994, above);

"New Questions for Lawyers in Meeting Ethical Standards for the Practice of Law" (luncheon speech at annual meeting of the Federation of Bar Associations of the Sixth Judicial District, Ithaca, New York, September 11, 1993).

"Trends and Emerging Ethical Issues in Attorney Liability Cases" (remarks during panel discussion of attorney and accountant liability issues at 10th Anniversary Bank and Thrift Supervision, Enforcement and Compliance Conference, Washington, D.C., September 10, 1993).

"Ethical Implications in Syndicating Lawsuits" (panel presentation at meeting of Business Law Section of American Bar Association at annual ABA meeting, New York City, August 8, 1993).

"Confidentiality, Conflicts, Corporate Clients and the Texas Disciplinary Rules of Professional Conduct" (opening speech at program on Professionalism, sponsored by Texas Center for Legal Ethics and Professionalism at annual meeting of Texas State Bar Association, Fort Worth, Texas, June 18, 1993).

"Institute on the Future of the Legal Profession" (invited program participant at Case-Western Reserve Law School, Cleveland, Ohio, June 1-3, 1993).

"Kaye-Scholer–Will It Affect Future Grievance Cases" (presentation to Midyear Meeting of the Association of Professional Responsibility Lawyers, Boston, Massachusetts, February 6, 1993).

"Legal Ethics and the Restatement Process: The Sometimes-Uncomfortable Fit" (paper presented to Professional Responsibility Section of American Association of Law Schools, meeting in San Francisco, January 8, 1993; published in slightly revised form in *Oklahoma Law Review*, above).

"Ethical Considerations for Corporate Counsel: Advising and Disclosing in an Uncertain Legal World" (outline published in *Sixth Annual Institute on Corporate Law Department Management* (PLI 1992; available on WestLaw), lecture to Practising Law Institute Practice Course, PLI Training Center, New York, N.Y., December 4, 1992).

"Regulatory Agencies and Ethical Duties to Corporate Clients" (remarks at Ninth Annual Bank and Thrift Supervision, Enforcement, and Compliance Conference on September 18, 1992 in Washington, D.C.).

"Mapping the Minefield--The Applicable Ethics Rules and Conflicting Duties" (outline published in *The Attorney-Client Relationship After Kaye-Scholer* (PLI 1992; available on WestLaw), lecture to Practising Law Institute Practice Course, Washington, D.C., June 15, 1992).

"Kaye-Scholer and the Tempered Role of Regulatory Counsel" (talk given as part of panel discussion on June 11, 1992 in Banff Springs, Alberta during annual meeting of Attorneys' Liability Assurance Society).

"Sex, Power and the Profession" (remarks, published in *ABA 18th National Conference on Professional Responsibility* (ABA Center for Professional Responsibility, 1992), given in Palm Beach, Florida on June 4, 1992; also revised version published in *Twelfth Annual Virginia State Bar Disciplinary Conference* (1992)).

"American Law Firms and Their Culture in the Twenty-first Century" (luncheon speech at firm retreat of New York City firm of Haight, Gardner, Poor & Havens on May 9, 1992).

"Lessons from the Kaye-Scholer Debacle: Lawyer Advise on the Margins of Legality and the Duty-to-Disclose Conundrum" (12th Annual Ray Garrett, Jr. Corporate and Securities Law Institute, Northwestern University School of Law, May 1, 1992).

"Screening for Conflicts of Interest: The American Perspective" (panel discussion on February 21, 1992, at Federation of Law Societies of Canada in Vancouver, B.C.).

"Reporting Misconduct of Another Lawyer" (panel discussion on February 20, 1992, at Association of the Bar of the City of New York).

"Restating the Law Governing Lawyers--Legal Doctrine or Law Day Revisited?" (speech to the New York City Cornell Law Association, January 31, 1992).

"The American Law of Client Confidentiality: Framework for an International Perspective" (invited paper given October 10, 1991 at Fordham University School of Law Symposium on Internationalization of the Practice of Law; revised version published in *Fordham International Law Journal*, above).

"Legal Ethics and Counsel for Financial Institutions--and for Regulatory Agencies" (speech at ABA Section on Business Laws National Institute on The Closing of a Bank or Thrift, Washington, D.C., June 6, 1991).

"A Consumer's Guide to the Restatement of the Law Governing Lawyers" (speech to the Los Angeles Cornell Law Association, May 14, 1991).

"Scottsboro Boy in 1991: The Promise of Adequate Criminal Representation Through the Years" (lecture at Cornell Law School 1991 Law and Public Policy Symposium, April 20, 1991; revised version published in *Cornell Journal of Law and Public Policy*, above).

"Introduction to the American Law Institute's Restatement of the Law Governing Lawyers" (speech to ABA Section of Business Law, Williamsburg, Virginia, April 12, 1991).

"The Uncertain Realm of Former-Client Conflicts" (outline published in *Legal Ethics 1990: What Every Lawyer Needs to Know* (PLI 1990; available on WestLaw), lecture to

Practising Law Institute Legal Ethics Program, PLI Training Center, New York, N.Y., October 25, 1990).

"Of Wild Bulls and Nose Rings: Controls on Lawyer Forensic Excesses" (speech at annual meeting of Attorneys' Liability Assurance Society in Quebec, June 29, 1990; a revised version of the speech was delivered at the annual meeting of Delaware Bar Association in Hershey, Pennsylvania, August 18, 1990).

"Lawyers, Client, Insurers: The Insurance Lawyer's Three-Cornered Hat" (invited lecture to Field Litigation Professional Issues and Standards Seminar of The Travelers Insurance Company, Winston-Salem, North Carolina, January 18, 1990).

"The Process of 'Restating' Ethics; the Challenge of the *Restatement of the Law Governing Lawyers*" (lecture before the annual Professional Responsibility Seminar of the Minnesota Office of Lawyers Professional Responsibility, September 29, 1989) (related remarks delivered at a Faculty Workshop, University of Minnesota Law School, same date).

"The Self-Regulation Stumbling Block" (debate with former president of California State Bar on bar proposal to remove most restrictions on unauthorized practice before conference sponsored by HALT, San Francisco, California, September 8, 1989).

"The Privileged World of a Lawyer's Office" (invited lecture to the Annual Meeting of the Tort and Insurance Practice Section of the ABA in Orlando, Florida, in May, 1989).

"Lawyer Turf and Lawyer Regulation--Lawyers and Courts Versus the Public Interest" (delivered as the Ben J. Altheimer Endowed Lecture at the University of Arkansas-Little Rock Law School in April 1989--a revised version published in the *University of Arkansas-Little Rock Law Journal*, above) (an earlier version was delivered as "Who Should Control the Practice of Law?" at the Annual Meeting of HALT in Washington, D.C. in April 1988).

"The Secret Sharer: Can an Attorney Be Compelled to Reveal His Client's Identity" (commentary article in *Manhattan Lawyer*, April 17, 1989, and other legal newspapers of the American Lawyer News Service--*e.g.*, *Legal Times*, April 3, 1989, p. 23).

"The *Brief* Interview: Charles W. Wolfram Thinking about the Privilege," (interview) *The Brief* 21-25, 38-41 (Winter 1989).

"Client-Lawyer Confidentiality and the Constitution," Robert A. Nelson Memorial Lecture, University of Nebraska Law School, November 1987.

"Ethics," (interview) *The Student Lawyer* 36-38 (April 1987).

"Public-Interest Fee-Shifting After *Jeff D*," paper delivered before the Remedies Section of the Association of American Law Schools Annual Meeting, January 1987.

"The Antibiotics Class Actions" (September 1983) (an extensively revised and expanded version of an earlier article, concentrating on the distribution of a large award and attorney fee applications).

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